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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,885	04/11/2005	Hiroshi Sasaki	Q87416	4482
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EXAMINER				
FEELY, MICHAEL J				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/530,885

Applicant(s)

SASAKI, HIROSHI

Examiner

Michael J. Feely

Art Unit

1796

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 11 June 2008. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-4 and 6-12.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Michael J Feely/
Primary Examiner, Art Unit 1796

Continuation of 3. NOTE:

(a/c). The proposed amendment alters the limitation "wherein component (A) is blended in an amount of from 10 to 80 parts by mass based on 100 parts by mass of the total sum of the polymerizable material comprising the component (A) and the component (B)," to -- wherein component (A) is blended in an amount of from 30 to 70 parts by mass based on 100 parts by mass of the total sum of the polymerizable material comprising the component (A) and the component (B)--. The end points of the new range are supported by the specification (see paragraph bridging pages 13 and 14). However, this range was not previously set forth in the claims. Accordingly, it would require further consideration and/or search. Furthermore, this change is not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

Continuation of 10. NOTE:

The 1.132 declaration attempts to show criticality for the proposed range of "from 30 to 70". Examples 1 (50), 4 (32), and 5 (68) are within the proposed range, while comparative examples 3 (8) and 4 (82) are outside of this range. Comparative example 3 (low A / high B) exhibits undesired curling with excellent scratch resistance; and comparative example 4 (high A / low B) exhibits poor scratch resistance and no undesired curling. As disclosed by the prior art, Table 1 demonstrates that this blend ratio is provided to achieve a balance of properties.

The prior art's balance of flexibility and hardness (see paragraph 0024 of Igarashi et al.) relates to the cited curling property. An adequate amount of (A) provides flexibility, offsetting internal stresses. Too little of (A) fails to offset internal stresses, which may lead to cracking, peeling, and curling. Too much of (A) compromises the hardness of the film, leading to poor scratch resistance.

The prior art's balance of flexibility and hardness also relates to the cited scratch resistance property. An adequate amount of (B) provides hardness, enhancing scratch resistance. Too little of (B) compromises the hardness of the film, leading to poor scratch resistance. Too much of (B) yields internal stresses, which may lead to cracking, peeling, and curling.

An adequate amount of both (A) and (B) yields a balance of these properties. In light of this, the results set forth in the declaration are not unexpected.

Furthermore, the experiments fail to truly isolate the end points and demonstrate why these values represent a critical threshold. Such a showing can be achieved by producing examples: just above the end-points, just below the end points, and on the end-points.

With respect to the current range of "from 10 to 80", the declaration is deficient for the same reasons set forth above.